



**Comments of the National Association for College Admission Counseling (NACAC)**  
**Notice of Proposed Rulemaking on Program Integrity Issues**  
August 1, 2010

The National Association for College Admission Counseling (NACAC) supports the proposed regulations issued by the U.S. Department of Education that protect students and taxpayers against unlawful admission and recruitment practices. The proposed program integrity regulations protect Federal student aid programs against waste, fraud and abuse.

Comments

We wish to express our general support for the proposed rules in each of the 13 subject areas. We offer comments on issues of most relevance to college admission officers.

**Incentive Compensation**

The Department's new proposed rules prohibiting commission, bonus, or other payment based on success in securing enrollment or financial aid are now more closely aligned with the Higher Education Act statute banning incentive compensation and NACAC's [\*Statement of Principles of Good Practice\*](#), which states that members "will not offer or accept any reward or remuneration from a college, university, agency, or organization for placement or recruitment of students. Members will be compensated in the form of a fixed salary, rather than commissions or bonuses based on the number of students recruited."

Association members stress that NACAC's core principles are intended to serve the student interest in the transition from secondary to postsecondary education. Our historic concern with the treatment of admission officers as professionals, rather than salespersons, is rooted in the interest of students in transition to postsecondary education. NACAC members will readily acknowledge that the number of students enrolled in a given academic year is a matter of great importance to all institutions of higher education. However, reducing the basis for compensation to the number of students enrolled in any circumstance introduces an incentive for recruiters to actively ignore the student interest in the transition to postsecondary education, and invites complications similar to those that preceded the enactment of the ban on incentive compensation under the 1992 Higher Education Act reauthorization.

The 2002 enactment of regulatory "safe harbors" were neither necessary nor appropriate given the clarity of the law, as expressed by NACAC during the regulatory comment period at that time. In the eight years since the enactment of the regulatory safe harbors, there is evidence of widespread disregard for the incentive compensation statute, which is documented on [NACAC's Program Integrity page](#). We agree with the Department that the current incentive compensation

regulations obstruct the goals intended by Congress and we support the deletion of the 12 safe harbors that currently enable institutions to circumvent the law.

The proposed definitions for “commission, bonus, or other incentive payment,” “securing enrollment or the awards of financial aid,” and “enrollment,” support regulatory language that aligns with the statutory ban on incentive compensation. NACAC is encouraged that the Department will appropriately guide institutions in evaluating compensation issues and work to address questions and issues as they arise in Department publications.

We acknowledge that the term “institutional goals,” in the context of the types of recruiting that the Department is rightly attempting to eradicate, is often a euphemism for incentive compensation practices that are in violation of statute. As such, we offer no opposition to or criticism of the Department’s effort to ensure that regulatory language is as airtight as possible against the kinds of activities that appear to have been widespread for most of the last decade under the safe harbors. However, as we pointed out during negotiated rulemaking, senior admission officials at non-profit institutions are often evaluated—among a variety of evaluative factors—against broad metrics relating to the institution’s capacity to serve a finite number of students. As such, a senior admission official whose staff significantly over-enrolls students on a consistent basis will not be serving his or her institution well. Similarly, many institutions must enroll a sufficient number of students to ensure fiscal solvency, so certain minimum enrollment quantities are often considered as part of a senior admission official’s evaluation. We hope that the Department will consider this fundamental component of higher education admission practice into the definition of the ‘variety of evaluative criteria’ mentioned in the preamble.

### **Definition of High School Diploma**

NACAC supports the Department’s proposal that requires institutions to develop and follow procedures for evaluation of the validity of a student’s high school completion if the institution or the Department of Education has reason to believe that the high school diploma is not valid or was not obtained from an entity approved to provide secondary education. This regulation will help limit the use of fraudulent credentials for enrollment.

At many NACAC member institutions, admission offices have policies and plans for determining secondary transcript content and validity. In addition, offices maintain information files of secondary schools from which applications are received for confirming curricular content. Establishing and following procedures for diploma validity evaluation is appropriate.

We appreciate the Department’s willingness to establish and maintain a list of secondary schools that will provide institutions with a centrally-managed list and will assist institutions in executing plans for determining diploma validity.

### **Ability to Benefit**

Given the abuses noted in the October 2009 [Government Accountability Office report](#), NACAC supports the Department’s proposals for student eligibility that will limit test administration abuses. The administration of secure tests is difficult due to the many parts of the testing process

that make it susceptible to fraud. To preserve the integrity of ability to benefit tests, an institution should be held responsible if it or an employee compromises the testing process, as proposed by the Department. Consensus was reached by non-Federal negotiators on this issue and demonstrates the broad support for proposed rules.

## **Misrepresentation**

The Department's new proposed rules on the misrepresentation of information to students and prospective students protects students and aligns with NACAC's [\*Statement of Principles of Good Practice\*](#), which states that members "will accurately represent and promote their schools, institutions or services by providing precise information about their academic majors and degree programs. Such information shall include a factual and accurate description of majors, minors, concentrations, and/or interdisciplinary offerings that apply toward the completion of the undergraduate degree."

Together, regulations on incentive compensation and misrepresentation will reduce the motivation for institutions to use aggressive and misleading recruitment tactics to increase enrollment. These protections will prevent institutions from enrolling students who are unable or unlikely to benefit from an educational program and from misusing taxpayer funds.

## **About NACAC**

NACAC is a non-profit association of nearly 12,000 high school counselors and college admission officers across the United States. The association represents more than 1,600 high schools and 1,100 not-for-profit colleges and universities. Founded in 1937, NACAC's core mission is to provide a code of ethics for the college admission counseling profession. NACAC's *Statement of Principles of Good Practice* constitutes the guiding principles for professional college admission practice in the United States.